

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14016, of Christ Church and Washington Parish, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from a warehouse to a photographic studio in an R-4 District at the premises rear 630 G Street, S.E., (Square 877, Lot 81).

HEARING DATE: September 14, 1983

DECISION DATE: September 14, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject premises is an alley lot located at the rear of 630 G Street, S.E., on an interior alley system. The site is in an R-4 District.

2. The site is rectangular in shape. Its dimensions are forty-eight feet on the east and west sides and 96.875 feet on the north and south sides. It has an area of 4,650 square feet.

3. The site is improved with a one story brick structure without a basement. The building was constructed in 1917 as a stable and is presently used as a warehouse. The structure occupies the entire lot and has a garage-type design. Its history of use is commercial and nonconforming. It has never been used as a residence.

4. The square in which the site is located is bounded by 6th, 7th, E and G Streets, S.E. The square is bisected by a north-south alley which is fifteen feet wide and provides access to E Street on the north and G Street on the south. From this main alley, T-shaped branches reach east and west and provide access to the interior of the square. The width of the branch alleys is thirty feet.

5. The subject property is located on one of the eastward-reaching branch alleys facing northward. The fifteen foot wide main alley is adjacent to the property from the west and the thirty foot branch alley provides access to the site from the north. Five other stables converted to warehouses face onto the same branch alley. This cluster of commercial buildings at the interior of the square is considered to contribute to the historic character of the neighborhood and has been a compatible set of nonconforming uses for over sixty years.

6. The immediate surrounding area is in an R-4 District which extends to the north for three blocks and to the west for five blocks. East of Square 877 across 7th Street is a C-2-A strip, with R-4 beginning again east of 8th Street. South of Square 877 across G Street is an area zoned R-5-B. Pennsylvania Avenue, three blocks to the northeast, is primarily zoned C-2-A and forms a neighborhood boundary.

7. The neighborhood south of Pennsylvania Avenue is an area of historic federal-style townhouses with small neighborhood parks every two or three blocks. Marion Park is one block northwest and Folger Park is three blocks northwest. Approximately thirty percent of the squares in the neighborhood have interior alley systems occupied by non-residential uses. Commercial uses are found in the 500 block of E Street, including a 7-11 food store and an auto repair facility.

8. Directly west of the main alley in Square 877 is Christ Church, which owns the subject property and holds the present Certificate of Occupancy No. B-96224 dated December 29, 1975, to operate a warehouse. The Church faces south and the subject site is adjacent to the Church's rear, on the east. The warehouse is no longer used by the Church and the vestry would like to sell it to someone whose use of the property would be an asset to the neighborhood. Mr. John Bowden, a professional photographer, has contracted to purchase the subject property from Christ Church and convert it into a photographic studio for use as his place of business.

9. The contract purchaser stated that his intention is to relocate his business establishment to an area which is closer to his existing clientele, his place of residence and to an area where he anticipates developing new clientele. He submitted letters and petitions to the record which show that his photograph business serves the Capitol Hill business community and residents.

10. The proposed photographic studio would operate from 9:00 A.M. to 5:00 P.M. on Monday through Friday. There will be two employees who will walk or take public transportation to work. No more than three visitors from outside the neighborhood are expected to come to the studio every week. Work for large customers such as department stores is usually done at their premises. Non-neighborhood visitors will be encouraged to use taxis or mass transit.

11. The contract purchaser intends to repair and modernize the interior of the building, including plumbing and heating systems. No exterior alterations will be made and no historic review procedures will be needed. The facade will be restored to its original condition.

12. The applicant stated that the proposed use would create less noise and traffic than the existing use, would not use any heavy machinery or noxious chemicals and would produce no odors, fumes or vibrations. The work activities, loading and unloading would take place inside the building. All deliveries would be during working hours.

13. No parking is provided by the applicant. None is required by the Zoning Regulations. Two hour parking is available on-street with ample spaces in the daytime. Public transportation is available in the area including Metrorail and Metrobuses.

14. The Board of Zoning Adjustment has authority to grant special exceptions for change of nonconforming uses under Sub-section 8207.2 and Paragraph 7106.11 of the D.C. Zoning Regulations. Sub-section 8207.2 reads as follows:

"The Board is authorized to grant special exceptions as provided in the preceeding articles of these regulations where in the judgement of the Board such special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and maps, and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and maps, subject in each case to the special conditions specified in said articles."

15. Paragraph 7106.11 governs changes of nonconforming uses and reads as follows:

"If approved by the Board of Zoning Adjustment as authorized in Section 8207 and subject to the conditions enumerated in the following Sub-paragraphs [7106.11 - 7106.116], a non-conforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing non-conforming use is permitted as a matter-of-right."

16. The present use as a warehouse is first permitted as a matter-of-right in the C-M-1 zone. The proposed use as a photographic studio is permitted in the C-M-1 zone, and is first permitted in the C-2-A District.

17. The Board finds that the proposed change of nonconforming use meets the requirements of Sub-paragraph 7106.111 through 7106.116 as follows:

- A. The proposed use will have no adverse affect on the present character and future development of the surrounding area within 300 feet. The present warehouse has been compatible with the area, and since the proposed use involves less activity, it

too should be compatible. The historic character of the structure will be preserved, as part of a cluster of similar structures. The mixture of low intensity commercial and residential uses in Square 877 will continue to reflect the mix in the surrounding neighborhood.

- B. The proposed use will not create any deleterious external effects. The work of a photographic studio is by its nature self-contained and does not produce noise, vibrations, fumes, or odors. Traffic and parking will be kept to a minimum, and loading and unloading will involve no heavy trucks, unlike the previous warehouse use. There will be no illumination and the only sign to be erected will be a three foot by five foot sign by the door.
- C. The nonconforming use has been continuous, and has never been changed to a conforming or more restrictive use.
- D. The proposed nonconforming use will be a neighborhood facility, as is required in a residential zone. The photographer presently serves local businesses such as Madison National Bank and Bullfeathers. In the new studio, his services will be available to all neighborhood residents and other neighborhood businesses. A survey performed by the applicant showed a need for his photographic services for neighborhood residents and business.
- E. Although the subject property is in an R-4 District, it has had a history of nonconforming uses because the structure is not suitable for residential uses. The design is garage-style and the structure occupies the entire lot, leaving no side yard, rear yard or front yard.
- F. No direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, nor any other restrictions or safeguards were deemed necessary to protect the neighborhood, due to the applicant's careful consideration of these requirements in designing his proposal. As hereinafter enumerated, the Board will attach one condition to the relief requested concerning signs.

18. The Office of Planning, by report dated September 7, 1983, recommended approval of this application. The

Office of Planning reported that the special exception request meets the conditions specified in Paragraph 7106.11 and the purpose and intent of Paragraph 8207.2. The Office of Planning noted that the proposed photographic studio is first permitted in the C-2-A District as a matter-of-right while the present warehouse use is first permitted as a matter-of-right in the C-M-1 District, thus satisfying Paragraph 7106.11. The proposed use will not adversely affect the present character or future development of the surrounding area within 300 feet in accordance with these regulations. The surrounding area is both industrial and residential in character in this R-4 District. The proposed photographic studio, about 4,500 square feet in area, will employ only two persons and will average three visitors from outside the neighborhood a week. There will be deliveries from local business establishments and individuals during working hours. Also, the applicant purchaser does work at his clients' places of business. The hours of operation of the studio will be from 9:00 A.M. to 5:00 P.M., Monday through Friday. The proposed use, unlike the previous warehouse, does not involve loading and unloading with heavy trucks. The proposed use will not produce emission or escape of any objectionable smoke, gas, sound or vibrations. The contract purchaser intends to relocate his business establishment to an area which is closer to his existing clientele and to his place of residence, as well as to an area in which he can develop new local clientele. Based on the letters and signed petitions in the record, the Office of Planning advised that the contract purchaser serves the Capitol Hill business community and residents of the neighborhood. The Board concurs with the reasoning and the recommendations of the Office of Planning.

19. Advisory Neighborhood Commission 6B, by letter dated August 23, 1983, reported that at its August 16, 1983, meeting the ANC voted 8 yeas, 1 nay and 1 abstention to support the application. The ANC reported that the structure in question was built in 1917 as a stable. It is a large one story "garage" style building, not suited for residential use. It has continuously been used as a "commercial" building with the latest certificate of occupancy as a warehouse. Following the new regulations for nonconforming uses, the ANC felt that the applicant met the requirements of the Regulations. The proposed use will not affect the present character of the area. The proposed use will not create any external effects. There will be less noise and traffic than with the warehouse use. The building is in a Residential District, and as stated, does not lend itself to use as a dwelling, flat or apartment house. Therefore, the photo studio use must qualify as a neighborhood facility. The applicant advised the ANC that although he does work for Town and Country magazine and the Hecht Company, he also does work for the Madison National

Bank, Bullfeathers and other local businesses. He also stated that anyone could avail themselves of his services. The Board is required by statute to give "great weight" to the issues and concerns of the ANC where a resolution of the ANC is reduced to writing and submitted to the Board. The Board concurs with the reasoning and recommendations of the ANC.

20. Numerous petitions and letters were filed in the record in support of the application on the grounds that the proposed use would not be objectionable and would serve the neighborhood.

21. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to change a nonconforming use. The granting of such a special exception requires that the proposed use be permitted as a matter of right in the most restrictive district in which the existing use is permitted as provided in Paragraph 7106.11 of the D.C. Zoning Regulations. The proposed use must also satisfy all conditions listed in Sub-paragraphs 7106.111 through 7106.116. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.


The Board concludes that the applicant has met the burden of proof to qualify for a special exception to change a nonconforming use. The Board further concludes that the change of use would not be detrimental to the public good nor would it impair the intent of the zone plan. The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled.

Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that any exterior sign be flush against the wall, shall not exceed three feet by five feet in size and shall not be illuminated.

VOTE: 3-0 (William F. McIntosh, Douglas J. Patton and Charles R. Norris to GRANT; Maybelle T. Bennett and Carrie Thornhill not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: NOV 13 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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